
STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



INDIANA GOVERNMENT CENTER NORTH
100 NORTH SENATE AVENUE N1058(B)
INDIANAPOLIS, IN 46204
PHONE (317) 232-3777
FAX (317) 974-1629

TO: School Corporations and County, City, and Town Fiscal Bodies

FROM: Courtney L. Schaafsma, Commissioner

SUBJECT: Guidelines for Adoption of School Corporation Budgets, Rates, and Levies for the 2016 Budget Year

DATE: July 30, 2015

The purpose of this memorandum is to explain the process by which school corporation (“school”) budgets, rates, and levies are to be adopted for the 2016 budget year and to prescribe the manner in which the corresponding advertisements and adoptions must take place.

Some schools adopt their own budgets, rates, and levies, but they are subject to non-binding review under IC 6-1.1-17-3.5. Other schools must have their budgets, rates, and levies adopted by a specified fiscal body pursuant to IC 6-1.1-17-20. Which statute governs depends on the composition of the school’s governing body. If a school’s governing body is comprised of a majority of elected officials, it is subject to non-binding review. Conversely, if a school’s governing body is comprised of a majority of non-elected officials, the school must have its budgets, rates, and levies adopted by a specified fiscal body.

An individual who qualifies to be appointed to a governing body or serves on a governing body because of the individual’s status as an elected official of another taxing unit is treated as an official who was not elected to serve on the governing body.

On March 26, 2014, Governor Pence signed into law House Enrolled Act 1266 (“HEA 1266”). HEA 1266 includes provisions that transition the process of advertising political subdivision budgets, rates, and levies from a newspaper system to an online system through the Department of Local Government Finance’s (“Department”) Gateway website. Starting in 2015 for the 2016 budget year, political subdivisions must advertise their budgets and levies through Gateway only. (This applies to the Form 3 only. See Special Note below for additional information on the Capital Projects Fund Plan and Bus Replacement Fund Plan notices.) A political subdivision that does not submit the required information to Gateway in the manner prescribed by the Department shall have its most recent annual appropriations and annual tax levy continued for the ensuing budget year.

HEA 1266 requires that taxpayers be able to search their budget and levy notices by address on the Gateway website and that the Department provide a telephone number by which a taxpayer can call the Department and request to have budget, levy, and meeting notices sent to them by mail. Counties are required by HEA 1266 to publish this information in two newspapers published in the county (or one, if there is only one newspaper published in the county).

A county may seek reimbursement from political subdivisions within its legal boundaries for the cost of publishing the notice.

SPECIAL NOTE:

All school corporations, regardless of whether the school corporation is subject to non-binding review or binding adoption, are responsible for the proper adoption of a Capital Projects Fund Plan and a Bus Replacement Fund Plan, if the school corporation has these funds. In other words, the **school corporation** must advertise the hearing for each plan, conduct the hearing on each plan, adopt each plan, and, in the case of the Capital Projects Fund Plan, publish the notice of adoption. The notices of hearing for both Plans must be published in the correct newspaper(s) one time at least ten (10) days prior to the public hearing on the Plan. The notice of adoption for the Capital Projects Fund Plan should be published in the correct newspaper(s) within thirty (30) days of the adoption. Please see the Department's memoranda on the Capital Projects Fund Plan and Bus Replacement Fund Plan for more information.

While the school corporation is responsible for the adoption of the Capital Projects Fund Plan and the Bus Replacement Fund Plan, school corporations subject to binding adoption will have the funds corresponding to these plans adopted by the applicable fiscal body on the Form 4.

Schools Subject to Non-Binding Review ***(Schools with Elected Boards)***

I. Submission to the County

A school subject to non-binding review must submit its proposed rates and levies to the county fiscal body for non-binding review by September 1. This must be done on Gateway using the County Council Review Worksheet (see the County Council Review Worksheet User Guide for more specific instructions). Schools subject to non-binding review do NOT have to submit their proposed budgets to the county fiscal body.

II. Review by the County

1. The county fiscal body must, on or before October 1, review any proposed or estimated tax rate or tax levy filed by a school. The county fiscal body does NOT have to issue a non-binding recommendation. The county fiscal body should ensure that its review is documented in the minutes of the meeting when the review is completed. Since no recommendation is required, the Department will rely on the minutes of the meeting to verify that the county fiscal body met its review requirement as it pertains to school corporations.
2. Because the county fiscal body will not be providing a recommendation on the school's levies and rates, the school may adopt its budgets, rates, and levies prior to the county fiscal body's completion of its review.

III. Penalties

1. If a school fails to timely file the required materials with the appropriate county fiscal body, the most recent annual appropriations and annual levy of that school are continued for the ensuing budget year.
2. If a county fiscal body fails to timely complete its non-binding review for any applicable school, the most recent annual appropriations and annual levy of the county are continued for the ensuing budget year (again, the county fiscal body need not issue a non-binding recommendation, but it must review the school's submission).

IV. Budget Adoption

Schools subject to non-binding review must adhere to the following procedures for adopting their budgets, rates, and levies.

Gateway Submission Requirements

Schools will use the Form 3 in Gateway to submit their budget information for the online advertisement. Schools must fill out the form in the manner prescribed by the Department's Form 3 User Guide.

1. The school must submit the following information to Gateway:
 - the proposed budget for each fund;
 - current levies for each fund;
 - proposed levies for each fund;
 - the amount of excessive levy appeals for each fund; and
 - the estimated maximum permissible levies.
2. The Form 3 submitted by the school must state the time, date, and place (including address) where the school will hold a **public hearing** on these items. **The public hearing must be held on the advertised date.** Except in Marion County, the public hearing must occur by October 23 (the statutory deadline is October 24, which falls on a Saturday in 2015).
3. The Form 3 submitted by the school must state the time, date, and place (including address) where the school will hold the **adoption meeting** on the budgets, rates, and levies. If the budget adoption cannot occur on the advertised date, the adoption meeting should be continued to another date or a new adoption meeting should be advertised. The Form 3 on Gateway should be updated with the new adoption date as soon as possible. This must be done at least 48 hours prior to the meeting. Additionally, a notice of the meeting must be posted at least 48 hours prior to the meeting pursuant to the Open Door Law. If the meeting is continued, minutes from the meeting showing the continuation need to be submitted to the Department to verify the new adoption date.
4. The Form 3 must be submitted to Gateway by September 14 (the statutory deadline is September 13, which falls on a Sunday in 2015).

5. **Additionally**, the Form 3 must be submitted to Gateway at least ten days before the public hearing. In order to hold the public hearing on day ten after the first advertisement, start counting days on the day after the Form 3 first appears on Gateway – if the Form 3 is submitted to Gateway on September 1, it will post to the public site for taxpayer viewing instantaneously. Therefore, day one is September 2, and the first day the public hearing could be held is September 11.
6. If a school timely submits its Form 3 to Gateway but subsequently discovers the information contains a typographical error, the county may request permission from the Department to submit amended information to Gateway.

Such a request must occur not later than seven days before the public hearing on the budgets, rates, and levies. The request will be inferred from the school submitting a revised Form 3. The Department will automatically give its approval by allowing the school to change information other than the public hearing date.

However, if the school wishes to change the public hearing date, the Department must explicitly grant permission for this change to be allowed. Schools that wish to modify the public hearing date must email Form3@dlgf.in.gov or call (888) 739-9826 to receive Department approval. The Department will not allow modifications on the public hearing date if the request is made within seven days of the public hearing.

Acknowledgment of a modified Form 3 will be posted on Gateway. Schools must communicate this change to the fiscal body of the county in which the school is located. This communication will be triggered automatically by submitting a revised Form 3.

7. Keep in mind that the budget, rate, and levy submitted to Gateway for each fund create a maximum amount of budget, rate, and levy for that fund. Please make sure that the amount submitted is what the school seeks to have in budget and rate and receive in levy for each fund.

Public Hearing Requirements

1. The school will conduct the public hearing at the advertised time and location. Taxpayers must be given an opportunity to speak during the hearing. If the public hearing must be continued, the school must properly continue the hearing and not adjourn.
2. Ten or more taxpayers may object to a budget, rate, or levy of the school by filing an objection petition with the school's governing body not more than seven days after the hearing. The objection petition must specifically identify the provisions of the budget, rate, and levy to which the taxpayers object. If a petition is filed, the school shall adopt with its budget a finding concerning the objections in the petition and any testimony presented at the hearing.

Adoption Meeting Requirements

1. The budgets, rates, and levies must be adopted by November 2 (the statutory deadline is November 1, which falls on a Sunday in 2015) (this is done using the Form 4). Make sure that the form is signed, dated, marked “yes” or “no” for each officer, and attested where applicable.
2. Keep in mind that the budget, rates, and levies **adopted** for each fund create a maximum amount of budget, rate, and levy for that fund. Please check and make sure that the amount adopted is what the school seeks to have in budget and rate and receive in levy for each fund.
3. Remember that there must be at least ten days between the public hearing and the adoption meeting.
4. Again, if an objection petition is filed, the school must adopt findings on the objections at the adoption meeting.

Schools Subject to Binding Adoption ***(Schools with Appointed Boards)***

I. Identifying Appropriate Adopting Body

The adopting body to which an applicable school must provide its budget, rate, and levy information is specified by IC 6-1.1-17-20:

1. If the assessed valuation of a taxing unit is entirely contained within a city or town: the fiscal body of that respective city or town.
2. If the assessed valuation of a taxing unit is not entirely contained within a city or town, but: the taxing unit was originally established by the city or town; or the majority of the individuals serving on the governing body of the taxing unit are appointed by the city or town: the fiscal body of that respective city or town.
3. If neither 1) nor 2) applies: the county fiscal body in the county where the taxing unit has the most assessed valuation.

II. Submission to the Adopting Body

The school must submit its budgets, rates, and levies to the adopting body for adoption by September 1. This is done by completing Forms 1, 2, 4A and 4B in Gateway Budget.

III. Gateway Submission Requirements

The Department will provide a format for entering the required budget, rate, levy, and meeting information on Gateway. Adopting bodies must fill out the form in the manner prescribed by the Department's Form 3 User Guide.

Both the adopting body and school should make sure that the advertisement of the school's budgets, rates, and levies is submitted to Gateway by September 14 (the statutory deadline is September 13, which falls on a Sunday in 2015) and at least ten days before the public hearing. **Notice is the responsibility of the adopting body, but both units are penalized for a failed advertisement. Therefore, both units should verify that submission is done correctly.**

1. The adopting body must submit the following information to Gateway:
 - the proposed budget for each fund;
 - current levies for each fund;
 - proposed levies for each fund;
 - the amount of excessive levy appeals for each fund; and
 - the estimated maximum permissible levies.
2. The Form 3 submitted by the adopting body must state the time, date, and place (including address) where the adopting body will hold a **public hearing** on these items. **The public hearing must be held on the advertised date.** The public hearing must occur by October 23 (the statutory deadline is October 24, which falls on a Saturday in 2015).
3. The Form 3 submitted by the adopting body must state the time, date, and place (including address) where the adopting body will hold the **adoption meeting** on the budgets, rates, and levies. If the budget adoption cannot occur on the advertised date, the adoption meeting should be continued to another date or a new adoption meeting should be advertised. The form on Gateway should be updated with the new adoption date as soon as possible. This must be done at least 48 hours prior to the meeting. Additionally, a notice of the meeting must be posted at least 48 hours prior to the meeting pursuant to the Open Door Law. If the meeting is continued, minutes from the meeting showing the continuation need to be submitted to the Department to verify the new adoption date.
4. The Form 3 must be submitted to Gateway by September 14 (the statutory deadline is September 13, which falls on a Sunday in 2015).
5. **Additionally**, the Form 3 must be submitted to Gateway at least ten days before the public hearing. In order to hold the public hearing on day ten after the first advertisement, start counting days on the day after the Form 3 first appears on Gateway – if the Form 3 is submitted to Gateway on September 1, it will post to the public site for taxpayer viewing instantaneously. Therefore, day one is September 2, and the first day the public hearing could be held is September 11.

6. If an adopting body timely submits its Form 3 to Gateway but subsequently discovers the information contains a typographical error, the adopting body may request permission from the Department to submit amended information to Gateway.

Such a request must occur not later than seven days before the public hearing on the budgets, rates, and levies. The request will be inferred from the adopting body submitting a revised Form 3. The Department will automatically give its approval by allowing an adopting body to change information other than the public hearing date.

However, if an adopting body wishes to change the public hearing date, the Department must explicitly grant permission for this change to be allowed. Adopting bodies that wish to modify the public hearing date must email Form3@dlgf.in.gov or call (888) 739-9826 to receive Department approval. The Department will not allow modifications on the public hearing date if the request is made within seven days of the public hearing.

Acknowledgment of a modified Form 3 will be posted on Gateway. Adopting bodies must communicate this change to the fiscal body of the county in which the school and adopting body are located. This communication will be triggered automatically by submitting a revised Form 3.

7. Keep in mind that the budget, rate, and levy submitted to Gateway for each fund create a maximum amount of budget, rate, and levy for that fund. Please make sure that the amount advertised is what the school proposes to have in budget and rate and receive in levy for each fund.

IV. Public Hearing Requirements

The adopting body will conduct the public hearing at the advertised time and location. Taxpayers must be given an opportunity to speak during the hearing. If the public hearing must be continued, the adopting body must properly continue the hearing and not adjourn.

1. Ten or more taxpayers may object to a budget, rate, or levy of the school by filing an objection petition with the adopting body not more than seven days after the hearing. The objection petition must specifically identify the provisions of the budget, rate, and levy to which the taxpayers object. If a petition is filed, the adopting body shall adopt with the budget a finding concerning the objections in the petition and any testimony presented at the hearing.

V. Adoption Meeting Requirements

1. The budgets, rates, and levies must be adopted by November 2 (the statutory deadline is November 1, which falls on a Sunday in 2015) (this is done using the Form 4). Make sure that the form is signed, dated, marked “yes” or “no” for each officer, and attested where applicable.
2. The adopting body may reduce or modify but not increase the school’s proposed budgets, rates, and levies.

3. Keep in mind that the budgets, rates, and levies **adopted** for each fund create a maximum amount of budget, levy, and rate for that fund. Please make sure that the amount adopted correctly reflects what the adopting body has set for the school.
4. Remember that there must be at least ten days between the public hearing and the adoption meeting.
5. Again, if an objection petition is filed, the adopting body must adopt findings on the objections at the adoption meeting.

VI. Penalties

If a school fails to timely and correctly file the budget information with the appropriate adopting body, the most recent annual appropriations and annual tax levy of the school are continued for the ensuing budget year.

Likewise, if the appropriate adopting body fails to timely and correctly adopt the budgets, rates, and levies of the applicable schools, the most recent annual appropriations and annual tax levy of the city, town, or county, whichever applies, are continued for the ensuing budget year. In this situation, there would also be an untimely or incorrect budget adoption for the school. As a result, the school would also have its most recent annual appropriations and annual tax levy continued for the ensuing budget year.